IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2868 OF 2005
IN
FIRST APPEAL NO. 2531 OF 2005.

The New India Assurance Co.Ltd. ... Applicant.
Versus.
Ramesh Shankar AMasurkar & anr. ... Respondents.

Mrs.Poonam R.Mital for the Applicant.

Shri T.J.Mendan for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 13th MARCH, 2006.

P.C.:

1. Rule. Respondent No.1 waives service. Service on Respondent No.2 is dispensed with. Heard the learned Advocates for the parties.

2. The challenge in the First Appeal preferred by the Appellant-Insurance Company is to an order made for payment of compensation under the Workmen's Compensation Act. By the impugned order, the Applicant/Appellant and the alleged employer of the Respondent No.1 have been jointly and severally directed to pay a lumpsum compensation of Rs.1,95,955/- to the Respondent No.1. The learned Commissioner for Workmen's Compensation, however, has not directed the Appellant/Applicant to pay any interest or penalty. The order for payment of interest and penalty is directed only against the employer.

3. The contention of the Appellant/Applicant in this Appeal is that it is the employer who is liable to pay compensation amount. In my view, in the facts of

the case the stay cannot be granted. Even if the Appellant/Applicant succeeds in the Appeal, the Appellant can recover the said amount from the employer.

4. Hence the prayer for stay is rejected. It is, however, made clear that the deposit of the amount by the Appellant and withdrawal thereof by Respondent No.1 will be subject to the final outcome of the Appeal.

Civil Application is accordingly rejected.

Judge.